

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF KENNETH) APPEAL NOS. 07-A-2052,
AND DEBRA SMITH from the decision of the Board) 07-A-2053 AND 07-A-2054
of Equalization of Shoshone County for tax year) FINAL DECISION
2007.) AND ORDER

COMMERCIAL PROPERTY APPEALS

THESE MATTERS came on for consolidated hearing September 26, 2007, in Wallace, Idaho, before Hearing Officer Steven Wallace. Board Members Lyle R. Cobbs, Linda S. Pike and David E. Kinghorn participated in this decision. Kenneth Smith appeared as representative for Appellants. Assessor Jerry White and Greg Saylor appeared for Respondent Shoshone County. These appeals are taken from a decision of the Shoshone County Board of Equalization (BOE) denying the protests of valuation for taxing purposes of property described as Parcel Nos. RP D00000067325 A, RP 48N03E058100A and RP D0200001001AA.

The issue on appeal is the market value of commercial property.

The decision of the Shoshone County Board of Equalization is affirmed in part and modified in part.

FINDINGS OF FACT

Parcel No. RPD00000067325A (Safeway Bldg)

The BOE assessed land value is \$276,439, and the improvements' valuation is \$379,100, totaling \$655,539. On appeal, the County reports there was an error in the assessment issued and that the improvements should have reflected an assessed value of \$624,860 for a total parcel value of \$901,300. The error was related to trending and the County requested at hearing that the Board increase the improvements' value. The referenced error was identified about 1.5 weeks prior to hearing. It was noted the Commissioners can do a tax cancellation relating to assessment errors when the valuation is too high. But errors associated with too-low

assessments can not be similarly addressed. Appellants request the land value be reduced to \$148,790, and the improvements' value be reduced to \$332,165, totaling \$480,955.

The subject property includes a 12,800 square foot masonry building built in 1953. It was previously a grocery store before being purchased in 1994. There is also a 42 by 108 foot shop addition with a 24 by 42 foot office area above, built in 2005. The reported cost of the addition was \$337,000. There have been other improvements since purchase. This parcel has a land size of 45,787 square feet.

Appellants' land value for this parcel, and the next one discussed below, was calculated from a rate of \$3.25 per square foot. The rate was derived from a January 2005, 9.03 acre sale. A number of important terms and conditions surrounding the 2005 land sale were not available. Appellants made no adjustments to the indicated price rate for known differences with the two referenced subjects. The total sale price was not disclosed and no time-adjustment was made. The early 2005 land sale was reportedly later developed as a condominium project and other commercial property types dissimilar to the subject property considered in this opinion. Appellants contend the price paid was high, and that the land is superior to the subject properties, and that size in the local marketplace makes little or no difference on a price per unit basis.

For Appellants, the value of improvements for this parcel, and the next two parcels discussed below, was based on actual expended costs less a depreciation allowance of 20%. Appellants do not see how the improvements' assessed values can be near twice actual out-of-pocket costs.

This parcel and the last one discussed below (RPD0200001001AA) were last reappraised for the 2005 tax year using income or cost approaches to value. Subsequent trending of these

base values occurred in 2006 and again for the current 2007 tax year toward maintaining assessed values at the current indicated market value level.

At hearing, the assessor presented information on two (2) commercial, 2006 “land” sales. Both sales were in Kellogg. These property sales were not compared or adjusted in a traditional sales comparison approach. Some sales analysis was offered. After time-adjustment for “date of sale”, the two sales indicated prices of \$6.13 and \$11.22 per square foot. Respectively, the two sale properties had 27,125 and 13,974 square feet of land area.

The referenced trending for 2007 was determined from a sales ratio study pertaining to the two land sales mentioned above and five improved commercial property sales.

Parcel No. RP48N03E058100A (51373 Silver Valley Rd.)

The BOE assessed land value is \$78,818, and the improvements' valuation is \$510,300, totaling \$589,118. On appeal, the County reports there was an error in the BOE assessment related to trending which resulted in an overstatement of the improvements' value. The County requested at hearing that the improvements' value be reduced to \$358,940, for a total parcel value of \$437,760. Appellants request the land value be reduced to \$78,656, i.e. basically left at its assessed value, and the improvements' value be reduced to \$149,151, totaling \$227,807.

The subject property includes a 6,525 square foot steel frame building built in 1975 with a 40 by 50 foot addition dating to 2000. The lot size is 4.63 acres located just east of the Kellogg city limits. Almost three (3) acres of the land is a “very steep, rocky hillside.” The steep portion was assessed for \$405. The site has 50,500 square feet of paving and extensive fencing. The property is used for vehicle drop-off and pre-delivery inspections.

This last reappraisal for this parcel occurred for the 2003 tax year. The property was slightly outside the city limits, however the same sales and trends were used as for the Kellogg

commercial property.

Parcel No. RPD0200001001AA (107 W. Cameron)

The assessed land value is \$176,794, and the improvements' valuation is \$575,240, totaling \$752,034. Appellants request the land value be reduced to \$93,153, and the improvements' value be reduced to \$363,371, totaling \$456,524.

The subject property includes a 1,662 square foot carwash built in 2003/04 for \$115,491 and a 4,200 square foot frame shipping (parts) building built in 2005 for \$279,213. Other improvements include concrete and asphalt paving used for parking and site work. The land size for this parcel is 28,658 square feet.

The Assessor's last reappraisal of this subject considered an income approach to value for the shipping building. A cost approach was apparently processed on the other improvements.

In summary, the Assessor opined the sales used in the subsequent trending were not particularly similar to the three subjects.

Each party presented exhibit materials showing their respective value calculations.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Property assessments are based on the status and market value of property on January 1 of each assessment year. Idaho Code §§ 63-205(1), 63-201(10), 63-208 *et seq.* The specific date of valuation pertaining to the market value questions in this appeal is January 1, 2007.

In an appeal taken to this Board, the burden of proof falls upon the Appellant "to establish

that the valuation from which the appeal is taken is erroneous . . . [a] preponderance of the evidence shall suffice to sustain the burden of proof.” Idaho Code § 63-511(4).

In a strict sense, Appellants’ valuation of the subject properties was not supported by recent sales of similar property or recognized appraisal practices. Whereas the assessments were loosely tied to recent, local commercial sales and did incorporate standard mass appraisal techniques. However current appraisals of the individual properties was missing from Respondent’s case. Given the sizable assessment increases, the Board would have preferred to see more substantial appraisal analysis and support. Recent sales do demonstrate widespread and significant increases in sale prices for local commercial property. In general, the Board found the Assessor’s evidence of current market value for the three (3) subject parcels to be more persuasive than Appellants’ calculations which only referenced land price data from one older sale where incomplete information was all that was available. Failure to account for differences in time associated with of older costs or older sale prices was not warranted or demonstrated in the Board’s judgment to be reasonable. However, some change is yet called for in relation to admitted county errors in trending calculations.

Where the County reports error in favor of Appellants, and further indicated the change could be made through tax cancellation by the County Commissioners, the Board will recognize the correction and order the associated assessment change. However given the overall circumstances in these cases and sizable increases already associated with the subject assessments for 2007, we are reluctant to take action on the error correction that would result in a further increase to one parcel’s improvements’ value. Therefore the Board will be affirming in part and modifying in part the Shoshone County Board of Equalization’s value decisions for the subject parcels as indicated below. In this instance, and on the record before it concerning

the three subject parcels, the Board will not make any changes to values associated with paving.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the value decisions of the Shoshone County Board of Equalization concerning the subject parcels be, and the same hereby are, AFFIRMED in part and MODIFIED in part as specified below.

<u>Parcel No.</u>	<u>Land</u>	<u>Impr.</u>	<u>Total</u>	<u>Comment</u>
RPD00000067325A	\$276,439	\$379,100	\$655,539	(affirmed)
RP48N03E058100A	\$78,818	\$358,940	\$437,758	(modified)
RPD0200001001AA	\$176,794	\$575,240	\$752,034	(affirmed)

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellants.

MAILED March 30, 2008